HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 2850 OF 2005.

Shri Nivrutti Sahadu Gonate. ...Applicant.

V/s.

The State of Maharashtra. ...Respondent

Shri M.S.Mohite, for applicant.

Shri K.V.Saste, APP for respondent.

CORAM: A.M.KHANWILKAR,J
DATE : MAY 5, 2005

P.C. :-

1. Heard counsel for the parties. Perused the record.

2. Indeed, the offence in question is serious offence, however, I find substance in the submission canvassed on behalf of the applicant. In so far as, the applicant is concerned, his name is not disclosed in the first two dying declarations recorded on 16th June, 2004, disclosure made by deceased to his father and mother. However, for the first time, name of the applicant has been mentioned in the statement of deceased brother dated 17th June, 2004 as one of the participants in the commission of the offence.

3. Prima facie, I find substance in the argument that it is clear case of improvement. It is only thereafter, statements of eye-witnesses have been recorded on 19th June, 2004 who allegedly noticed the applicant in having participated in the assault. In my opinion, as prima facie is case made out by the applicant and chargesheet has also been filed, and asthere are no antecedents against the applicant, the applicant deserves to be enlarged on bail.

4. Accordingly, this application ought to succeed on the following terms and conditions.

(i) Applicant is directed to be enlarged on bail in connection with the C.R.No.326 of 2004 registered at Kothrud Police Station, on executing personal bond in the sum of Rs.25,000/-(Rs.twenty five thousand) with two local sureties in like amount.

(ii) The applicant shall not influence any prosecution witness nor tamper with any prosecution evidence in any manner, whatsoever.

(iii) The applicant shall not enter the

jurisdiction of Kothrud Police Station, as it appears that there is group rivalry between the parties.

(iv) The applicant shall inform place of residence to the Investigating officer within one week from the date of release on bail.

(v) Besides, the applicant shall co-operate for early disposal of the trial as condition for bail. In the event, the trial is of the opinion that the applicant is responsible for delay in trial, that fact be recorded in roznama and that can be the basis for cancellation of bail.